

Application No. 10/516,796
In Response to Office Action dated January 25, 2008
Paper dated June 20, 2008
Attorney Docket No. 3985-045798

AMENDMENTS TO THE DRAWINGS

Please cancel Fig. 6 and delete the drawing sheet associated with Fig. 6.

REMARKS

Claims 9-13, 15, and 16 remain in this application. Claims 9 and 16 have been amended, while claims 1-8 and 14 have been cancelled. The remaining claims are unchanged. No new subject matter is believed to have been added by this Amendment.

On page 2 of the Office Action, the Examiner rejects claim 14 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner indicates that claim 14 contains subject matter which was not described in the Specification in such a way to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention. The Examiner also indicates that Fig. 6 contains new matter and that the detailed description of Fig. 6 also contains new matter. Claim 14 and Fig. 6 have been cancelled, while the description of Fig. 6 in the Specification has been deleted.

On Page 3 of the Office Action, the Examiner rejects claims 9-16 under 35 U.S.C. §103(a) as being obvious from the teaching of United States Patent No. 6,203,511 to Johnson, et al. (hereinafter the "Johnson patent"), in view of the teaching of United States Patent Application Publication No. 2002/0133108 to Jagodzinski (hereinafter the '108 application).

Briefly summarizing, the subject invention is directed to an orthopedic device which, as illustrated in Fig. 1, is made up of a hinge means 3 having an upper hinge 4 and a lower hinge 6, wherein each hinge has a pivot axis 5, 7 each oriented in a direction which make an angle with each other of 90 degrees \pm 40 degrees. It should be noted in Fig. 1 that the upper hinge 4 and lower hinge 6 each pivot freely about their respective pivot axis 5, 7. The rotation of these hinges is limited only by the flexible tensile element 13, which primarily limits the rotation of the lower hinge 6.

The Johnson patent is directed to an orthotic joint having an upper clevis portion 60' and an associated lower portion 59'. These portions 59', 60' may be incrementally adjusted relative to one another about a threaded fastener 64 using complementary tooth surfaces 62, 62'. This hinge is rotationally restrained and does not


permit free rotation of the portions 59', 60' about the threaded fastener 64. The '108 application is directed to a device stabilizing a joint. However, this reference does not teach or suggest any rotation about two hinges, but instead, is directed to rotation about a single axis, identified as the redirection point means 11.

The Applicants would like to thank the Examiner and his Supervisor for the telephone interview conducted February 26, 2008, during which the Examiner indicated that a proposed amendment to claim 9, specifying that two hinges are capable of free rotation, would overcome the current obviousness rejection. Independent claims 9 and 16 have been amended to specify that the hinge means comprises two hinges and each hinge has a pivot axis and pivots freely about that axis.

The combination of features now found in amended claims 9 and 16 is neither taught nor suggested, alone or in combination, by any of the prior art of record. For these reasons, the Applicants believe that claims 9 and 16, as amended, are patentably distinct over the prior art of record. Furthermore, by way of their dependence upon what is believed to be patentably distinct independent claim 9, dependent claims 10-13 and 15 are themselves believed to be patentably distinct over the prior art of record.

Reconsideration and allowance of claims 9-13, 15, and 16 are respectfully requested.

Respectfully submitted
THE WEBB LAW FIRM

By 
James G. Porcelli
Registration No. 33,757
Attorney for Applicants
700 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Telephone: 412-471-8815
Facsimile: 412-471-4094
E-mail: webblaw@webblaw.com